IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION.

NOTICE OF MOTION No. 4433 OF 2006.
IN
SUIT No.3216 OF 1986.

Karniveedu Pudiyapurli Ali Koya. Plaintiff.

Vs.

Brijesh Ranabahadur Singh And Others. Defendants.

Mr. Yashodhan Sakhare, Advocate for Defendant No.9 in support.

Mr. M. K. Nesari, Advocate for the Plaintiff to show cause.

CORAM: D.G. KARNIK,J.
DATED: 23RD JANUARY, 2007.

P.C.:-

1. This motion is taken out by the defendant No. 9 for setting aside the order dated 16th June, 2006 passed by this Court directing the suit to proceed without written statement of the defendants and for permission to file written statement.

2. The suit was filed in the year 1986. After the service of the suit summons, apperance was entered by the defendant no.1 on 13th November, 1986, but for a period of nearly 20 years defendant no.9 did not file a written statement. Court, therefore, directed the suit would proceed the without written

statement.

2. The delay is gross and is not explained. Only a vague allegation has been made and that because of his illness, the defendant No. 9 was unable to follow up the matter and attend the Court proceedings on account of illness. No details of illness are given. It is inconceivable that the defendant No.9 was so sick for 20 years to be able to follow his normal business and not to file a written statement.

3. The order directing that the suit would proceed without the written statement was passed on 16.6.2006. Motion is taken out on 12.12.2006 i.e. after nearly six months. This delay is also not explained.

4. In the circumstances, I see no reason to condone the delay which is gross and of more than 20 years. Motion is accordingly dismissed.

[D.G.KARNIK, J]